

MOTION FILED
SEP 1 1987

No. 87-1372

(A)

IN THE
Supreme Court of the United States

OCTOBER TERM, 1987

ARGENTINE REPUBLIC,

Petitioner,

—v.—

AMERADA HESS SHIPPING CORPORATION
and UNITED CARRIERS, INC.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SECOND CIRCUIT

**MOTION BY THE INTERNATIONAL ASSOCIATION
OF INDEPENDENT TANKER OWNERS (INTER-
TANKO) FOR LEAVE TO FILE BRIEF AS AMICUS
CURIAE ONE DAY OUT OF TIME**

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7 pp

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CURIAE ONE DAY OUT OF TIME**

The International Association of Independent Tanker Owners (INTERTANKO) respectfully moves this Honorable Court for leave to file its brief as *amicus curiae* in support of respondents one day out of time. In support of its motion, INTERTANKO states as follows:

1. INTERTANKO is an international, non-profit organization representing about 80 percent of the world's independently owned tanker fleet, totalling approximately 135,000,000 dwt. It is vitally interested in the issues raised by this appeal.

2. The Court's schedule provided for the filing of respondents' brief in this matter and briefs as *amici curiae* in support of respondents by August 30, 1988.

3. INTERTANKO's original motion for leave to file its brief as *amicus curiae* and brief in support of respondents was transmitted by Federal Express to this Court, rather than by United States mail, directly by the printer of the brief, Record Press, Inc., on August 30, 1988.

4. The original motion for leave to file brief and brief as *amicus curiae* on behalf of INTERTANKO was received by this Court on the next day, August 31, 1988.

5. Counsel for INTERTANKO had instructed Record Press to file the brief by mailing ~~copy~~ by Express Mail with the United States Postal Service on or before August 30, 1988 in accordance with this Court's Rule 28.2. Apparently, Record Press disregarded this instruction and, instead, without advising counsel for *amicus*, transmitted the brief to this Court by Federal Express. (See Affidavit of Helena M. Green submitted herewith).

6. Copies of the original motion for leave to file brief as *amicus curiae* and brief were served by mail on all parties to these proceedings within the original time for filing of the brief on August 30, 1988. Therefore, the granting of this motion will not prejudice any of the parties or delay the briefing schedule.

7. A similar motion made by the American Jewish Congress, *et al.*, as *amicus curiae* in *Patterson v. McLean Credit Union* (No. 87-107), was recently granted by the Court. *Patterson, supra*, ___ U.S. ___, 108 S.Ct. 2893, 101 L.Ed.2d 928, 56 U.S.L.W. 3894 (1988).

WHEREFORE, it is respectfully requested that the Court grant the instant motion by INTERTANKO for leave to file its brief as *amicus curiae* in support of respondents one day out of time.

Respectfully submitted,

/s/ CHRISTOPHER B. KENDE
CHRISTOPHER B. KENDE
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Attorney for Amicus Curiae
International Association of
Independent Tanker Owners
(INTERTANKO)

September 1, 1988

SUPREME COURT OF THE UNITED STATES

No. 87-1372

ARGENTINE REPUBLIC,

Petitioner,

—v.—

AMERADA HESS SHIPPING CORPORATION and
UNITED CARRIERS, INC.,

Respondents.

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

HELENA M. GREEN, Being duly sworn, deposes and says:

1. I am an employee of Record Press, Inc., printers for the movant herein, and as such am fully familiar with the facts herein. I make this affidavit in support of the instant motion to grant leave to file the *amicus* brief for the International Association of Independent Tanker Owners (INTERTANKO) one day out of time.

2. On August 30, 1988 I had spoken with Christopher Kende, (Counsel of Record) who had instructed me to serve and file his brief with the United States Supreme Court via Express Mail. Unfortunately, I inadvertently sent the aforementioned brief via Federal Express. Although the brief was actually received by the Court on August 31, 1988, the Clerk of the Court informed Mr. Kende that the brief could not be accepted for filing because it was not considered timely. The one day delay in the filing of the brief was due to an error on our part, not to any delay by INTERTANKO or Counsel.

WHEREFORE, the affiant herein, respectfully requests that the motion herein be granted.

Respectfully Submitted,

/s/ HELENA M. GREEN
 Helena M. Green
 RECORD PRESS, INC.
 157 Chambers Street
 New York, New York 10007
 (212) 619-4949

Sworn to before me this 31st
 day of August, 1988

NURI S. ANSARI
 Notary Public, State of New York
 No. 31-4783512
 Qualified in New York County
 Commission Expires December 31, 1989

/s/ NURI S. ANSARI
 Nuri Ansari
 Notary Public

PROOF OF SERVICE BY MAIL

I am a member of the Bar of this Court and a resident of the City of New York and the County of New York; I am over the age of eighteen years and not a party to the within action; my business address is: Suite 5215, 1 World Trade Center, New York, New York 10048.

On September 1, 1988, I served the within Motion by the International Association of Independent Tanker Owners (INTERTANKO) for Leave to File Brief as *Amicus Curiae* One Day Out of Time on the Parties in this action by placing three copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States post office mail box at New York, New York, addressed as follows:

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Counsel of Record for the
United States as Amicus Curiae

All Parties required to be served have been served.

I certify, under penalty of perjury, that the foregoing is true and correct.

Executed on September 1, 1988, at New York, New York.

/s/ CHRISTOPHER B. KENDE
Christopher B. Kende